

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Baisheng Chen,

Plaintiff,

—v—

Kevin McAleenan, et al.,

Defendants.

JAN 16 2020

19-cv-9951 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On January 14, 2020, Defendants filed a motion to dismiss. Pursuant to Rule 3.F of this Court's Individual Practices in Civil Cases, on or before January 24, 2020, Plaintiff must notify the Court and his adversary in writing whether (1) he intends to file an amended pleading and when he will do so or (2) he will rely on the pleading being attacked. Plaintiff is on notice that declining to amend his pleadings to timely respond to a fully briefed argument in the Defendants' January 14 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendants' briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility").

If Plaintiff chooses to amend, Defendants may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that it relies on the initially-filed motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

SO ORDERED.

Dated: January 15, 2020
New York, New York

A handwritten signature in black ink, appearing to read 'Alison J. Nathan', positioned above a horizontal line.

ALISON J. NATHAN
United States District Judge